

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MARK HALE, TODD SHADLE, and
LAURIE LOGER, on behalf of themselves and
all others similarly situated,

Plaintiffs

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, EDWARD
MURNANE, and WILLIAM G. SHEPHERD,

Defendants.

Case No. 3:12-cv-00660-DRH-SCW

Judge David R. Herndon

Magistrate Judge Stephen C. Williams

PLAINTIFFS' NOTICE OF REMAINING PRETRIAL ISSUES

On August 15, 2018, the Court ordered that the parties file a notice of any remaining issues. [893]. In their Trial Brief [901], Plaintiffs identified the following issues that they contend should be resolved prior to trial of this matter:

1. Pursuant to Plaintiffs' conspiracy proffer, whether statements of coconspirators are admissible against Defendants under FRE 801(d)(2)(E);
2. Whether the *Noerr-Pennington* doctrine applies to Plaintiffs' claims;
3. Whether, per Defendants' proposed jury instructions and despite this Court's prior ruling [846], the statute of limitations has run as a matter of law;
4. Whether Wojcieszak is an agent of *Hale* Plaintiffs' Counsel during the period 2006 to 2012;
5. Whether State Farm's statements about its political activities and civil justice reform efforts are admissible as business records under FRE 803(6);
6. Whether Plaintiffs can introduce deposition testimony of a State Farm agent or coconspirator even if the witness is otherwise available;

7. Whether otherwise admissible exhibits must be sponsored by or tethered to a particular witness in order to be introduced as evidence;

8. Whether the testimony of a former class representative whose case has been dismissed with prejudice is admissible; and

9. Whether current State Farm policy holders should be excluded for cause from serving on the jury.

In addition, Plaintiffs identify the following additional issues:

1. The process of using evidentiary summaries (and the admissibility of the evidentiary summaries tendered by Plaintiffs pursuant to Federal Rules of Evidence 902(11), 902(13), and 1006;

2. The relevance and admissibility of Defendant State Farm's summary of asbestos-related lawsuits brought in Madison County against numerous corporations and in which State Farm had no involvement;

3. How the Court wants the parties to handle impeachment of a witness using deposition video clips;

4. Whether a party must lay a foundation to joint exhibits or exhibits to which there is no objection prior to using such exhibits; and

5. Competing proposed jury instructions.

Plaintiffs advise that they have no objection to either the Court's proposed revised trial schedule or to the evidentiary summary presentation proposal, and respectfully submit their preference that the trial begin as currently scheduled on September 4, 2018.

Plaintiffs further advise that they continue to meet and confer with Defendants on various issues, and respectfully reserve their right to identify additional issues as may become apparent prior to the August 29, 2018 hearing.

Dated: August 22, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Local Rule 7.1(b), I certify that a copy of the foregoing was served upon counsel via the Court's CM/ECF system.

/s/ Robert J. Nelson